

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ANTHONY M. VIDLAK,**

**Defendant.**

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**Case No. 8:04CR166**

**ORDER**

This matter is before the court on the defendant's Motion to Determine Competency pursuant to 18 U.S.C. § 4241 (#47). On September 27, 2004 the court ordered (#51) that the defendant, Anthony M. Vidlak, was not presently competent to stand trial and that he should be committed under Title 18 U.S.C. § 4241(d) to the custody of the Attorney General for hospitalization and treatment in a suitable facility.

On December 6, 2005 the court received a forensic report, including a Certificate of Competency, from the Federal Bureau of Prisons. The certificate advised the court that Anthony Vidlak had been examined pursuant to 18 U.S.C. § 4241(d) and that pursuant to 18 U.S. C. § 4241(e) he has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in the defense of the claims brought against him.

On December 15, 2005 a hearing was held before the undersigned magistrate. The defendant was present and represented by counsel, Julie Frank. The United States was represented by Michael Wellman, Assistant United States Attorney. The December 6, 2005 forensic report of the United States Department of Justice Federal Bureau of Prisons United States Medical Center for Federal Prisoners and the Certificate of Competency,

were received into evidence without objection. Defendant's counsel represented on the record that the defendant no longer questioned his mental competency. No additional evidence was adduced.

I find by a preponderance of the evidence that the defendant is not presently suffering from a mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241. Accordingly, I find that this case should be set for trial.

**IT IS ORDERED:**

1. The defendant is not suffering from any mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241.

2. This case should be set for trial before Chief United States District Judge Joseph F. Bataillon.

Dated this 15<sup>th</sup> day of December 2005.

BY THE COURT:

S/ F. A. Gossett  
United States Magistrate Judge